

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

OLU OMODUNBI,

Plaintiff,

v.

GORDIN & BERGER, P.C., EDWARD
BERGER, AND DANIEL BERGER,

Defendants.

Civil Action No. 17-7553 (JKS) (JSA)

OPINION and ORDER

June 27, 2024

SEMPER, District Judge.

WHEREAS before the Court is Defendants Gordin & Berger, P.C., Edward Berger, and Daniel Berger’s (collectively “Defendants”) appeal of Judge Allen’s orders.¹ (ECF 204.) The Court has decided this appeal pursuant to Federal Rule of Civil Procedure 72(a) and Local Civil Rule 72.1(c), and upon the submissions of the parties, without oral argument, pursuant to Federal Rule of Civil Procedure 78; and

WHEREAS the Court incorporates by reference the case’s factual background and procedural history as set forth in the Court’s June 27, 2024 Opinion on the cross motions for summary judgment; and

WHEREAS in a district judge’s review of a magistrate judge’s decision, Federal Rule of Civil Procedure 72(a) states: “[t]he district judge. . . must consider timely objections and modify or set aside any part of the order that is clearly erroneous or is contrary to law.” Similarly, the Local

¹ Defendants improperly characterized the motion as a “MOTION to Reinstate Defendants’ Counterclaims and Third-Party Complaint pursuant to Rule 72, MOTION to Set Aside 140 Order, 114 Order[.]” (See ECF 204.)

Rules for this district provide that “[a]ny party may appeal from a [m]agistrate [j]udge’s determination of a non-dispositive matter within 14 days” and the district court “shall consider the appeal and/or cross-appeal and set aside any portion of the [m]agistrate [j]udge’s order found to be clearly erroneous or contrary to law.” Local Civ. R. 72.1(c)(1)(A); and

WHEREAS Defendants filed this appeal on September 15, 2023, which was over a year and a half after Magistrate Judge Allen issued the December 21, 2021 Order (ECF 114) and over a year after Judge Allen issued the April 14, 2022 Letter Order (ECF 140); and

WHEREAS Defendants failed to timely file this appeal within fourteen days of Judge Allen’s orders; and

IT IS, on this 27th day of June 2024,

ORDERED that Defendants’ Appeal (ECF 204) is **DENIED** and the Honorable Jessica S. Allen’s Orders (ECF 114; ECF 140) are **AFFIRMED**.

SO ORDERED.

/s/ Jamel K. Semper
HON. JAMEL K. SEMPER
United States District Judge

Orig: Clerk
cc: Jessica S. Allen, U.S.M.J.
Parties